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To: **Mail Stop Appeal Brief- Patents**
United States Patent and Trademark Office
Fax No.: (703) 872-9306
From: **George M. Macdonald**
Date: **September 3, 2004**
Subject: **Serial No.: 10/036,982**
Pages: **4** (including this cover)

Re: U.S. Patent Application Serial No.: 10/036,982
Confirmation No.: 5328
Our Docket # F-423

Enclosed please find Appellants' Reply Brief.

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following correspondence is being transmitted
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U.S. Patent and Trademark Office
Examiner Joseph C. Rodriguez, GAU 3653
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1. Appellant's Reply Brief on Appeal (3 pages).

on September 3, 2004
Date of Transmission


Signature

George M. Macdonald
Name of Registered Rep.
Reg. No.: 39,284

September 3, 2004
Date

Serial No.: 10/036,982
Attorney Docket No.: F-423

Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

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SEP 03 2004

In re patent application of:) Attorney Docket No.: F-423
William E. Ryan, et al.) Customer No.: 00919
Serial No.: 10/036,982)
Filed: December 31, 2001) Examiner: Joseph C. Rodriguez
Confirmation # 5328) Group Art Unit: 3653
Date: September 3, 2004

Title: **SYSTEM FOR DETECTING THE PRESENCE OF HARMFUL
MATERIALS IN INCOMING MAIL STREAM**

Mail Stop Appeal Brief- Patents
Commissioner for Patents
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF ON APPEAL

Sir:

The Appellants respectfully submit this reply brief pursuant to 37 C.F.R. § 1.193(b)(1) in reply to the Examiner's Answer filed on August 30, 2004 in the appeal of the subject application. The Notice of Appeal was filed on February 5, 2004, and the Appellant's Brief was filed on May 5, 2004. The Commissioner is hereby authorized to charge any additional fees that may be required for this appeal or to make this brief timely or credit any overpayment to Deposit Account No. 16-1885.

Appellants have reviewed the Examiner's Answer and determined that the cited disclosure of Lopez '099 had not been precisely referenced in the Final Office Action as Appellants attention was drawn to a different reference numeral 20 that does not show a gap. In view of the newly appreciated evidence, Appellants are withdrawing the argument of Appellant's Brief, Section VIII C, regarding the "gap" subject matter. Appellants regret the misunderstanding. However, Appellants respectfully submit that the arguments of Sections VIII A, B and D necessitate the reversal of the final rejection of all of claims 1-11.

CERTIFICATE OF FACSIMILE TRANSMISSION

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George M. Macdonald, Reg. No. 39,284 (Name of Registered Rep.)

 (Signature)

September 3, 2004 (Date)

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September 3, 2004 Appellants' Reply Brief

Señal No.: 10/036,982
Attorney Docket No.: F-423

Patent

The following argument follows the section numbers of the August 30, 2004 Examiner's Answer.

Section 7, Grouping of Claims

Appellants have withdrawn the argument of Appellants Brief, Section VIII C regarding claims. If the grouping suggested in the Examiner's Answer is applied, Appellants rely on the argument of Appellants Brief Sections VIII A and B for claims 1-10.

Section 9, Prior Art of Record

As discussed herein, the current record does not support the Examiner's assertion that the Call '664 reference is available as prior art.

Section 10, Grounds of Rejection

Appellants respectfully urge reversal for the reasons stated in Sections VIII A, B and D of Appellants' May 5, 2004 Brief on Appeal.

Furthermore, in the Examiner's Answer, at page 5, the Examiner states that it is implicit that the transition area would also be a filtered area within the containment area. Appellants respectfully disagree. Lopez '099 does not suggest separate areas for the system. Additionally, Call '664 teaches seals 906 rather than filtered transition areas. Call '664 teaches that such seals do not even completely isolate the testing chamber. See Call '664 at paragraph 109.

Furthermore, the Examiner cites to Lopez '099 for a system for reading and determining but does not address the language of claim 1 that recites "determines a destination bin if the detection module does not detect the presence of harmful material in the mailpiece." Lopez '099 does not even teach a diverter or collection module.

Section 11, Response to Argument

As noted by the Examiner, Appellants agree claims 12-17 are not in the case as the citation to claims 1-17 was a typographical error and should read 1-11.

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Patent

The Examiner states that the Call '664 reference is entitled to the filing date of the related provisional application, but not provide a copy of the related provisional to establish such entitlement. Accordingly, the current record does not support the use of Call '664 as a reference in the present case.

As discussed above, even if Call '664 was a proper reference, there is no motivation to combine it with Lopez '099, especially as neither describes filtered transition areas. Furthermore, Call '664 does not even teach or appreciate the need for a diverter and thus provides no motivation to combine the references as suggested.

In Conclusion, Appellants respectfully submit that the final rejection of claims 1-11 is in error for at least the reasons given above and should, therefore, be reversed.

Respectfully submitted,



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